

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-11954

Amy Palmer

v.

Champion Mortgage

CLERK'S CERTIFICATE

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 1/18/06.

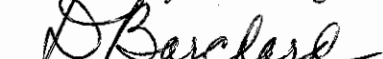
In testimony whereof, I hereunto set my hand and affix the seal of this Court on January 31, 2006.

Sarah A. Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 2/1/06.


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-11954-RCL**

Palmer v. Champion Mortgage
Assigned to: Judge Reginald C. Lindsay
Cause: 15:1601 Truth in Lending

Date Filed: 09/08/2004
Jury Demand: Plaintiff
Nature of Suit: 890 Other
Statutory Actions
Jurisdiction: Federal Question

Plaintiff

Amy Palmer

represented by **Christopher M. Lefebvre**
PO Box 479
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401-728-6060
Fax: 401-728-6534
Email: lefeblaw@aol.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Champion Mortgage

represented by **W. Scott O'Connell**
Nixon Peabody LLP
889 Elm Street
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603 628-4087
Fax: 603-628-4040
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/08/2004	1	COMPLAINT Filing fee: \$ 150, filed by Amy Palmer. (Stanhope, Don) (Entered: 09/09/2004)
09/08/2004		Summons Issued as to Champion Mortgage. (Stanhope, Don)

		(Entered: 09/09/2004)
09/08/2004	●	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Cohen. (Stanhope, Don) (Entered: 09/09/2004)
12/06/2004	●2	NOTICE of Appearance by W. Scott O'Connell on behalf of Champion Mortgage (O'Connell, W.) (Entered: 12/06/2004)
12/06/2004	●3	Assented to MOTION for Extension of Time to 12/13/04 to File Answer re <u>1</u> Complaint by Champion Mortgage. (O'Connell, W.) (Entered: 12/06/2004)
12/07/2004	●4	CORPORATE DISCLOSURE STATEMENT by Champion Mortgage. (O'Connell, W.) (Entered: 12/07/2004)
12/07/2004	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>3</u> Assented to Motion for Extension of Time to Answer Complaint Champion Mortgage. (Stanhope, Don) (Entered: 12/07/2004)
12/13/2004	●5	MOTION to Dismiss by Champion Mortgage. (Attachments: # (1) # <u>2</u> Appendix Part 1 of 7# <u>3</u> Appendix Part 2 of 7# <u>4</u> Appendix Part 3 of 7# <u>5</u> Appendix Part 4 of 7# <u>6</u> Appendix Part 5 of 7# <u>7</u> Appendix Part 6 of 7# <u>8</u> Appendix Part 7 of 7) (O'Connell, W.) (Entered: 12/13/2004)
12/13/2004	●6	MEMORANDUM of Law in Support of it's <u>5</u> MOTION to Dismiss filed by Champion Mortgage. (Stanhope, Don) (Entered: 12/14/2004)
12/21/2004	●9	Unopposed MOTION to Extend Time by Amy Palmer. (Stanhope, Don) (Entered: 12/30/2004)
12/23/2004	●7	MOTION for Leave to File an Amended Complaint by Amy Palmer.(Hourihan, Lisa) (Entered: 12/28/2004)
12/27/2004	●8	MEMORANDUM in Opposition re <u>5</u> MOTION to Dismiss filed by Amy Palmer. (Hourihan, Lisa) (Entered: 12/28/2004)
01/03/2005	●	Judge Reginald C. Lindsay : ElectronicORDER entered granting <u>9</u> Motion for Extension of Time to File Opposition to Motion to Dismiss to 1/21/05 (Hourihan, Lisa) (Entered: 01/03/2005)
01/07/2005	●10	Opposition re <u>7</u> MOTION for Leave to File <i>Amended Complaint</i> filed by Champion Mortgage. (O'Connell, W.)

		(Entered: 01/07/2005)
03/10/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>7</u> Motion for Leave to File Amended Complaint, because plaintiff may amend as of right, no answer having been filed. (Hourihan, Lisa) (Entered: 03/10/2005)
03/10/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered finding as moot <u>5</u> Motion to Dismiss. Defendant has 14 days from today to file an answer to the amended complaint (Hourihan, Lisa) (Entered: 03/10/2005)
03/10/2005	● <u>11</u>	AMENDED COMPLAINT against Champion Mortgage, filed by Amy Palmer.(Stanhope, Don) (Entered: 03/11/2005)
03/24/2005	● <u>12</u>	MOTION to Dismiss <i>the Amended Complaint</i> by Champion Mortgage.(O'Connell, W.) (Entered: 03/24/2005)
03/24/2005	● <u>13</u>	MEMORANDUM in Support re <u>12</u> MOTION to Dismiss <i>the Amended Complaint</i> filed by Champion Mortgage. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> # <u>4</u> # <u>5</u>) (O'Connell, W.) (Entered: 03/24/2005)
03/31/2005	● <u>14</u>	Opposition to <u>12</u> MOTION to Dismiss <i>the Amended Complaint</i> filed by Amy Palmer. (Stanhope, Don) (Entered: 03/31/2005)
06/21/2005	● <u>15</u>	NOTICE by Amy Palmer re <u>11</u> Amended Complaint (Attachments: # <u>1</u> Exhibit Court Decision)(Lefebvre, Christopher) (Entered: 06/21/2005)
06/28/2005	● <u>16</u>	Response by Champion Mortgage to <u>15</u> Notice (Other) of <i>Additional Authority</i> . (O'Connell, W.) (Entered: 06/28/2005)
12/22/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>12</u> Defendant's Motion to Dismiss. Because the amended complaint refers to the Notice of Right to Cancel, which the plaintiff claims to have received "several days after the closing" in question in this case, the Notice is central to the plaintiff's claims, and the plaintiff does not dispute that the Notice of Right to Cancel attached to the defendant's motion to dismiss is the Notice she received, I may consider the Notice in ruling on the present motion. See, e.g., Watterson v. Page, 987 F.2d 1, 3 (1st Cir. 1993) ("Ordinarily... any consideration of documents not attached to the complaint, or not expressly incorporated therein, is forbidden [in connection with deciding a motion under Rule 12(b)(6)], unless the proceeding is

		properly converted into one for summary judgment under Rule 56. However, courts have made narrow exceptions for documents the authenticity of which are [sic] not disputed by the parties; for official public records; for documents central to [the] plaintiffs' claim; or for documents sufficiently referred to in the complaint.") The Notice the plaintiff received clearly and conspicuously advised her of her right to cancel the transaction within three business days from the last to occur of three events, one of which was the date she received the notice of right to cancel. The plaintiff thus was given notice that three days from the date of receipt of the Notice of Right to Cancel, she could rescind the loan transaction. She did not attempt to rescind the transaction until over a year later, on August 6, 2004. Accordingly her attempt to rescind the transaction is time-barred. Furthermore her claims for damages based on an alleged violation of the Truth-in-Lending Act ("TILA") are also time-barred for the reasons argued by the defendant in part III of its brief. Both of the plaintiff's claims under TILA, therefore are dismissed. The plaintiff's claims under Mass. Gen. L. ch.140D are preempted by TILA and are likewise dismissed. The clerk shall enter judgment dismissing this action and shall terminate this case upon the court's docket. (Lindsay, Reginald) (Entered: 12/22/2005)
12/27/2005	●	Civil Case Terminated. (York, Steve) (Entered: 12/27/2005)
12/27/2005	●17	MOTION to Alter Judgment Pursuant to Federal Rule 59 and Request To File Second Amended Complaint by Amy Palmer. (Attachments: # 1 Proposed Second Amended Complaint with Exhibits A through C)(Lefebvre, Christopher) (Entered: 12/27/2005)
12/28/2005	●18	Judge Reginald C. Lindsay : ORDER entered. JUDGMENT in favor of defendant against plaintiff(Hourihan, Lisa) (Entered: 12/28/2005)
12/29/2005	●19	MOTION to Withdraw 17 MOTION to Alter Judgment Pursuant to Federal Rule 59 and Request To File Second Amended Complaint by Amy Palmer.(Lefebvre, Christopher) (Entered: 12/29/2005)
12/29/2005	●20	MOTION to Alter Judgment Pursuant to Federal Rule 59 and Request to file Second Amended Complaint by Amy Palmer. (Attachments: # 1 Proposed Second Amended Complaint) (Lefebvre, Christopher) (Entered: 12/29/2005)

01/06/2006	21	Opposition re <u>20</u> MOTION to Alter Judgment <i>Pursuant to Federal Rule 59 and Request to file Second Amended Complaint</i> filed by Champion Mortgage. (O'Connell, W.) (Entered: 01/06/2006)
01/06/2006	22	MEMORANDUM in Opposition re <u>20</u> MOTION to Alter Judgment <i>Pursuant to Federal Rule 59 and Request to file Second Amended Complaint</i> filed by Champion Mortgage. (O'Connell, W.) (Entered: 01/06/2006)
01/09/2006		<p>● Judge Reginald C. Lindsay : Electronic ORDER entered finding as moot <u>17</u> Motion to Alter Judgment in light of the court's granting of the motion docketed as paper #19; granting <u>19</u> Motion to Withdraw <u>17</u> Motion to Alter Judgment; and denying <u>20</u> Motion to Alter Judgment. The ruling on the motion docketed as item #20 comprehends both the plaintiff's request for reconsideration of the court's previous dismissal of the plaintiff's claims and the plaintiff's request to file a second amended complaint. As for the request for reconsideration, the plaintiff has merely reiterated arguments previously made and rejected by the court. As for the request to amend the complaint, the court notes that the complaint already has been amended once. Moreover, the motion to dismiss was pending for several months before the court's ruling. The defect in the pleading found by the court was clearly set forth in the motion, and the plaintiff made no attempt to remove that defect. Indeed, in the proposed second amended complaint, the plaintiff appears, at least in part, to restate one of the claims that the court rejected in ruling on the motion to dismiss. (Lindsay, Reginald) (Entered: 01/09/2006)</p>
01/18/2006	23	NOTICE OF APPEAL by Amy Palmer. \$ 255 fee paid receipt 69658 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerk/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 2/7/2006. (York, Steve) (Entered: 01/19/2006)